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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,646	02/19/2002	Elena A. Fedorovskaya	83957RLO	7936

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EXAMINER

SINGH, SATWANT K

ART UNIT PAPER NUMBER

2625

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/079,646

Applicant(s)

FEDOROVSKAYA ET AL.

Examiner

Satwant K. Singh

Art Unit

2625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 April 2002 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Response to Amendment***

1. This office action is in response to the amendment filed on 13 February 2006.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

***Double Patenting***

3. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 8, 13, and 14 of U.S. Patent No. 7,003,139. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the referenced patent since the referenced patent and the instant application are claiming common subject matter as follows:

Displaying a plurality (set) of images for viewing by a user and; automatically collecting affective information for the plurality of digital images as a particular user views the images.

Claim 8 of the referenced patent fails to disclose storing in a database the collected affective information for each of the plurality of digital images and associating the collected affective information with the particular user. However, claim 13 of the referenced patent discloses that the system in claim 8 wherein the affective information is stored in digital memory. And claim 14 of the referenced patent discloses that the affective information is stored with each digital image in a digital image file.

Therefore it would be obvious to one having ordinary skill in the art that claim 1 in the instant application is a combination of claims 8, 13, and 14 in the referenced patent.

4. Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/079,283. Although the conflicting claims are not identical, they are not patentably distinct from each other because the subject matter claimed in the instant application is fully disclosed in the referenced copending application since the referenced copending application and the instant application are claiming common subject matter as follows:

Displaying a plurality (set) of images for viewing by a user; automatically collecting affective information (viewing time) for the plurality of digital images as a particular user views the images; and storing the affective information for the plurality of digital images associated with the user

It is obvious that the conflicting claims are obvious variations of each other.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Matraszek et al. (US 2003/0122839).

The applied reference has a common Assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

7. Regarding Claim 1, Matraszek et al disclose a method of collecting and associating affective information for a plurality of images in an imaging system, comprising the steps of: (a) displaying a plurality of digital images for viewing by a particular user (Fig. 2, Step 110) (user opens a new set of images by inserting the CD-ROM into the CD reader 26 of the home computer) (page 4, paragraph [0065]); (b) automatically collecting affective information for the plurality of digital images as the particular user views the images (Fig. 2, Step 118, YES) (user selects automatic affective tagging) (page 4, paragraph [0069]); and (c) storing in a database the collecting affective information for each of the plurality of digital images and associating the collected affective information with a particular user (Fig. 2, Step 146) (affective information is stored with user identifier) (page 3, paragraph 0047], page 6, paragraph [0087]).

8. Regarding Claim 2, Matraszek et al disclose a method further including the step of (d) the particular user providing a personal identifier (Fig. 2, Step 114, user enters personal id and password).
9. Regarding Claim 3, Matraszek et al disclose a method wherein the affective information and a user identifier are stored with each of the digital images in a plurality of digital images (Fig. 2, Step 146, personal affective tags are associated with images) (page 6, paragraph [0087]).
10. Regarding Claim 4, Matraszek et al disclose a method wherein each of the digital image files includes affective information for a plurality of users (a single image file can include a plurality of affective tags for a plurality of users) (pages 6 and 7, paragraph [0094]).
11. Regarding Claim 5, Matraszek et al disclose a method wherein the step of automatically collecting affective information includes monitoring the physiology of the particular user (physiological responses recorded as the user views the image) (page 2, paragraph [0042], page 4, paragraph [0069]).
12. Regarding Claim 6, Matraszek et al disclose a method wherein the step of automatically collecting affective information uses a video camera (video camera 4 captures video images of the face of the user 2) (page 3, paragraph [0054]).
13. Regarding Claim 7, Matraszek et al disclose a method wherein the step of automatically collecting affective information includes determining the duration of time the particular user views each of the plurality of images (viewing time off the image) (page 2, paragraph [0035]).

14. Regarding Claim 8, Matraszek et al disclose a method wherein the step of automatically collecting affective information for the plurality of digital images includes monitoring the gaze of the particular user (gaze path of the user) (page 2, paragraph [0039]).

15. Regarding Claim 9, Matraszek et al disclose a method for providing affective information for images in an imaging system, comprising the steps of: (a) sequentially displaying a plurality of digital images for viewing by a particular user (Fig. 2, Step 110) (user opens a new set of images by inserting the CD-ROM into the CD reader 26 of the home computer) (page 4, paragraph [0065]); (b) automatically collecting affective information for each of the plurality of digital images (Fig. 2, Step 118, YES) (user selects automatic affective tagging) (page 4, paragraph [0069]); (c) storing the collected affective information for each of the plurality of digital images and associating the collected affective information with the particular user (Fig. 2, Step 146) (affective information is stored with user identifier) (page 3, paragraph 0047], page 6, paragraph [0087]), and (d) using the stored collected affective information to facilitate retrieval of particular digital images from the plurality of digital images (Fig. 2, Step 148) (the personal affective tags are used to retrieve or print images) (page 7, paragraph [0095]).

16. Regarding Claim 10, Matraszek et al disclose a method wherein the collected affective information for each of the plurality of digital images is stored along with the digital image in separate digital image files, and the digital image files include a user identifier which identifies the particular user (Fig. 2, Step 146, personal affective tags are associated with images) (page 6, paragraph [0087]).

17. Regarding Claim 11, Matraszek et al disclose a system for providing affective information for images in an imaging system, comprising: (a) a digital memory which stores a set of digital images (CD-ROM) (page 4, paragraph [0065]); (b) means for identifying a particular user (Fig. 2, Step 112) (user enters personal ID and password) (page 4, paragraph [0066]); (c) a display which sequentially displays the set of digital images for viewing by the particular user (Fig. 2, Step 110) (user opens a new set of images by inserting the CD-ROM into the CD reader 26 of the home computer) (page 4, paragraph [0065]); (d) a sensor for automatically measuring the particular user's reaction to the image (video camera 4) (page 4, paragraph [0069]); (e) a processor for processing the signal from the sensor to provide affective information for the set of digital images (Fig. 2, Step 128) (home computer 10 automatically records the signals that the user selected) (page 5, paragraph [0072]); and (f) a memory for storing the affective information for the set of digital images (Fig. 2, Step 146) (affective information is stored with user identifier) (page 3, paragraph 0047]), wherein the processor accesses the stored affective information to facilitate retrieval of particular digital images from the set of stored digital images (Fig. 2, Step 148) (the personal affective tags are used to retrieve or print images) (page 7, paragraph [0095]).

18. Regarding Claim 12, Matraszek et al disclose a system wherein the sensor is a video camera (video camera 4 captures video images of the face of the user 2) (page 3, paragraph [0054]).



19. Regarding Claim 13, Matraszek et al disclose a system wherein the processor processes the signal from the video camera in order to determine the particular user's facial expression (facial expression of the user) (page 2, paragraph [0037]).

20. Regarding Claim 14, Matraszek et al disclose a system wherein the sensor measures the particular user's biometric response (user's biometric response) (pages 2 and 3, paragraph [0042]).

21. Regarding Claim 15, Matraszek et al disclose a system wherein the sensor measures the particular user's galvanic skin response (galvanic skin response) (page 3, paragraph [0053]).

22. Regarding Claim 16, Matraszek et al disclose a system wherein the system includes a pointing device, and the sensor is incorporated into the pointing device (pointing device 18) (page 3, paragraph [0053]).

23. Regarding Claim 17, Matraszek et al disclose a system wherein the sensor measures the particular user's galvanic skin response (galvanic skin response) (page 3, paragraph [0053]).

24. Regarding Claim 18, Matraszek et al disclose a system wherein the affective information is stored in the digital memory (Fig. 2, Step 146) (affective information is stored with user identifier) (page 3, paragraph 0047]).

25. Regarding Claim 19, Matraszek et al disclose a system wherein the affective information is stored with each digital image in a digital image file (Fig. 2, Step 146, personal affective tags are associated with images) (page 6, paragraph [0087]).

26. Regarding Claim 20, Matraszek et al disclose a system wherein the digital image file includes affective information and user identifiers for a plurality of users (a single image file can include a plurality of affective tags for a plurality of users) (pages 6 and 7, paragraph [0094]).

***Conclusion***

27. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Satwant K. Singh whose telephone number is (571)

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272-7468. The examiner can normally be reached on Monday thru Friday 8am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A. Williams can be reached on (571) 272-7471. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



sks

Satwant K. Singh  
Examiner  
Art Unit 2625



**KIMBERLY WILLIAMS**  
**SUPERVISORY PATENT EXAMINER**